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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92056816
Party	Plaintiff Google Inc.
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Date	06/01/2015
Attachments	P'S REPLY ISO MOTION FOR LEAVE TO AMEND.pdf(311835 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Google Inc.,)	Cancellation No.: 92056816
)	
Petitioner,)	Registration No.: 3,360,331
)	Mark: CHROME
v.)	Issued: December 25, 2007
)	
VIA Technologies, Inc.,)	Registration No.: 3,951,287
)	Mark: CHROME
Registrant.)	Issued: April 26, 2011
)	

**REPLY IN SUPPORT OF MOTION FOR LEAVE TO
AMEND PETITION FOR CANCELLATION**

Petitioner Google Inc. (“Google”) hereby submits this Reply in support of its Motion for Leave to Amend its Petition for Cancellation of Registration Nos. 3,360,331 and 3,951,287 for the CHROME mark (the “Subject Registrations”) owned by Registrant VIA Technologies, Inc. (“Registrant”) in order to add fraud in the procurement and maintenance of the Subject Registrations as an additional ground for cancellation.

I. INTRODUCTION

In its Opposition, Registrant alleges that (1) Google unduly delayed in seeking leave to amend its Petition for Cancellation to add a fraud claim; and (2) Google did not plead fraud with sufficient particularity in its Amended Petition for Cancellation. Both of Registrant’s allegations are false.

Registrant’s own discovery tactics are the sole and direct cause of Google’s alleged delay in asserting a fraud claim. As fully set forth in Google’s Motion for Leave and its recent Motion to Compel, Registrant has orchestrated a discovery shell game using deflection, misrepresentations, and delay to cover up inaccuracies in the Subject Registrations.

Now after nearly two years of attempting to elicit meaningful discovery from Registrant, Google has finally been able to piece together a puzzle that clearly reflects Registrant's fraudulent procurement and maintenance of the Subject Registrations. Those puzzle pieces consist of: (a) Registrant's lack of documents supporting its claimed use of the CHROME mark; (b) Registrant's varied and inconsistent discovery responses; (c) depositions from Inky Chen and Amy Wu; and (d) Registrant's own belated admissions in its Motion to Amend the Subject Registrations. Upon gathering all of this information, Google promptly sought leave from the Board to amend its Petition to Cancel the Subject Registrations based on fraud.

In its Opposition, Registrant asserts that Google should have had sufficient evidence of Registrant's fraud when it filed its Petition for Cancellation. ((Resp't.'s Opp. to Mot. for Leave to Amend Pet. for Cancellation, Cancellation No. 92056816 (May. 11, 2015), pp. 7-8.) ("Opp. to Mot."). Registrant's allegation is fatally undermined by its own delay in attempting to correct significant inaccuracies in the Subject Registrations until just a few weeks ago by filing its Motion to Amend the Subject Registrations. (Resp't.'s Mot. to Amend the Subject Registrations, Cancellation No. 92056816 (Mar. 31, 2015).) If Registrant itself was not aware that the Subject Registrations contained materially false information until March 31, 2015 (as alleged in its motion and supporting papers), it is unfathomable that Google would have the necessary facts to allege fraud with particularity before then. (*Id.* p. 4, Declaration of Ken Weng ¶ 6, Declaration of Epan Wu ¶ 4.)

Google's Motion for Leave to Amend its Petition for Cancellation is timely, will not prejudice Registrant in any way, and is in no way futile. Further, the Board should grant Google's Motion in the interest of judicial economy because it will allow Google to challenge the Subject Registrations on all known grounds at one time – instead of forcing Google to initiate another

cancellation action based on fraud at a later date. For the foregoing reasons, Google respectfully requests that the Board grant its Motion.

II. ARGUMENT

“The Board liberally grants leave to amend pleadings at any stage of a proceeding when justice so requires, unless entry of the proposed amendment would violate settled law or be prejudicial to the rights of the adverse party or parties.” TBMP § 507.02 (*citing*, among others, *Hurley International L.L.C. v. Volta*, 82 USPQ2d 1339, 1341 (TTAB 2007)); *see* Fed. R. Civ. P. 15(a). In its Opposition, Registrant did not set forth any legitimate reason for why justice requires the Board to deny Google’s Motion.

A. Registrant’s Claims of Undue Delay and Prejudice Are Meritless.

1. Registrant Is Unilaterally Responsible for Any Delay.

Any delay in Google’s ability to plead a claim of fraud with particularity is attributable to Registrant’s own bad faith discovery tactics.

It is telling that Registrant did not refute any of the facts Google set forth in its Motion regarding Registrant’s delay and obfuscation during discovery – other than to allege that Amy Wu had very limited knowledge regarding Registrant’s use of the CHROME mark. (Opp. to Mot. p. 10.) Registrant downplays Ms. Wu’s significance in order to support its contention that her testimony is not evidence of Registrant’s fraud and thus it was not necessary for Google to depose her before amending its Petition for Cancellation.

Registrant’s assertion of Ms. Wu’s limited significance, however, is flatly at odds with Registrant’s own amended initial disclosures. On June 17, 2014, Registrant identified Ms. Wu as a person most knowledgeable about Registrant’s “actual and planned use of the CHROME trademarks.” (Declaration of Morgan Champion ¶ 2, Ex. A.) (“Champion Decl.”) Based on this disclosure, Google sought Ms. Wu’s deposition testimony in order to gain the information it was

unable to obtain through document discovery – namely, basic information regarding Registrant’s use of the CHROME mark. As such, Ms. Wu’s admissions regarding the limited scope of Registrant’s use of the CHROME mark were invaluable to Google’s ultimate understanding of Registrant’s fraudulent misrepresentations in obtaining and maintaining the Subject Registrations.

Even putting aside Registrant’s recent inconsistencies regarding Ms. Wu’s role, the record in this proceeding is replete with evidence that Registrant has stifled and delayed discovery at every turn. (Pet.’s Mot. for Leave to Amend Pet. for Cancellation, Cancellation No. 92056816 (Apr. 21, 2015), pp. 7-15.) (“Mot. for Leave”). Virtually all of the extension requests that the parties requested were caused by Registrant’s ongoing discovery failures. (Champion Decl. ¶ 3.)

Google first sought intervention from the Board through a motion to compel in June 2014 which detailed the critical documents and information that Google was lacking at the time. (Pet.’s Mot. to Compel, Cancellation No. 92056816 (June 24, 2014).) After filing that motion, the parties reached an agreement that would have ostensibly resolved Registrant’s discovery failures. (Mot. for Leave, Declaration of Brendan J. Hughes ¶ 20.) To the contrary, since then, Registrant has done nothing to abate the concerns set forth in Google’s June 2014 Motion to Compel. (Mot. for Leave, pp. 14-15.) For that reason, Google was forced to file another Motion to Compel last week, which again lays bare the myriad ways Registrant has dodged its fundamental discovery obligations in this proceeding. (Pet.’s Mot. to Compel, Cancellation No. 92056816 (May 28, 2015).)

Most recently, Registrant promised on February 26, 2015 that it would provide additional documents and information to support its claims of use by March 16 or promptly thereafter, and would amend the Subject Registrations to remove any goods or services for which it could not support its claimed use. (Mot. for Leave, Declaration of Rebecca Givner-Forbes ¶¶ 19, 20.) However, Registrant failed to provide any of the promised additional support for its claims of use and proposed only minor amendments that fall far short of rendering the Subject Registrations

accurate. (*Id.* pp. 16, 17, Givner-Forbes Decl. ¶ 21.) This recent conduct solidified Google’s good faith belief that Registrant had not simply made an innocent mistake that it now sought to correct in good faith, but that it had indeed committed fraud.

2. Registrant Cannot Properly Allege That It Will Be Prejudiced.

It is well established that “delay itself is an insufficient ground to deny amendment.” *Datascope Corp. v. SMEC, Inc.*, 962 F.2d 1043, 1045 (Fed. Cir. 1992). The delay must be “undue.” *Foman v. Davis*, 371 U.S. 178, 182 (1962). Like the federal courts, the Board has recognized that “the concept of undue delay is inextricably linked with the concept of prejudice to the non-moving party.” *Marshall Field & Co. v. Mrs. Field’s Cookies*, 17 U.S.P.Q.2d 1652 (TTAB 1990); *see Omega S.A. v. Allian Techsystems Inc.*, Oppositions Nos. 91173785 and 91174067, Decision on Mot. for Leave, *5-6 (TTAB Sept. 4, 2012) [non-precedential]; *Mayeaux v. La. Health Serv. & Indemn. Co.*, 376 F.3d 420, 427 (5th Cir. 2004) (“Delay alone is an insufficient basis for denial of leave to amend; the delay must be undue, *i.e.*, it must prejudice the nonmoving party.”); *see also Block v. First Blood Assocs.*, 988 F.2d 344 (2d Cir. 1993); *Edwards v. City of Goldsboro*, 178 F.3d 231, 242 (4th Cir. 1999).

To prove prejudice sufficient to deny a request to amend a pleading, the non-moving party must demonstrate that allowing the amendment would deny it an adequate opportunity to prepare its case on the new issues raised by the amended pleading, or that the moving party’s delay has caused the loss of valuable evidence or an important witness to become unavailable. *See Trek Bicycle Corporation v. Styletrek Limited*, 64 USPQ2d 1540, 1541 (TTAB 2001) (*citing Pratt v. Philbrook*, 109 F.3d 18 (1st Cir. 1997)).

Registrant has not and cannot offer any specific allegation of prejudice that would warrant denying Google’s Motion for Leave to Amend its Petition for Cancellation. Registrant merely

alleges that Google delayed and then baldly asserts a claim of general prejudice resulting from the alleged delay.

Any claim of Registrant's prejudice is undermined by the fact that Registrant's use of the CHROME mark, or lack thereof, has been the subject of Google's discovery efforts since this proceeding was initiated over two years ago. Thus, if the Board grants the Motion, the scope of discovery would be virtually the same. Registrant would not have to collect, review, and produce any documents that it is not otherwise obligated to produce in order to satisfy its current discovery obligations. Further, Registrant would not need to conduct any third party discovery because the information related to Registrant's use of the CHROME mark resides exclusively with Registrant. *Omega S.A.*, Decision on Mot. for Leave, *8 (TTAB September 4, 2012) [non-precedential] (allowing opposer to amend its Notice of Opposition to add a fraud claim six years after the opposition was initiated because applicant had not shown it would be prejudiced given that "information related to applicant's use of its applied-for marks resides with applicant.").

In addition, timing "plays a large role in the Board's determination of whether an adverse party would be prejudiced" by an amendment to the pleadings. *TBC Brands, LLC v. Sullivan*, 2008 TTAB LEXIS 589, *3 (TTAB 2008) (citing *M. Aron Corp. v. Remington Products, Inc.* 222 U.S.P.Q. 93, 96 (TTAB 1984)). In considering prejudice, the Board reviews the *relative* timing of a motion to amend pleadings. Federal courts and the Board often look to the close of discovery as a reference point in determining whether granting leave to amend will result in substantial prejudice to the non-moving party. *See, e.g., Hurley International LLC*, 82 USPQ2d at 1341. (Noting that "opposer's motion for leave to file an amended notice of opposition was filed prior to the start of trial" in finding no prejudice to applicant in adding claim of fraud); *Zanella Ltd. v. Nordstrom Inc.*, 90 USPQ2d 1758, 1759 (TTAB 2008) (designated as precedential May 13, 2009) (no prejudice found by addition of fraud claim prior to close of discovery); *FDL, Inc. v. Simmons Co.*, 2003 U.S.

Dist. LEXIS 24195, *39-40 (S.D. Ind. Nov. 17, 2003) (no prejudice where discovery remained open, and distinguishing cases where leave is sought after close of discovery or final judgment). As the Board has noted, “[a]ny potential prejudice may be ameliorated by the resetting and extension of discovery and trial dates, particularly where the discovery period was still open when the motion was brought.” 99 [cents] *Only Stores v. U.S. Dream, Inc.*, Opposition No. 91116977, 2004 TTAB LEXIS 475, *5-6 (TTAB Aug. 23, 2004) [non-precedential].

Google requested leave to amend its Petition for Cancellation promptly after discovering ample evidence to support a fraud claim and while the discovery period was still open. Although Registrant observes that Google noted “the overbroad list of goods and services for which [Registrant], apparently falsely, claimed to have used the mark” in December 2012, the law is clear that this would have been insufficient. *In re Bose Corp.*, 580 F.3d 1240, 1243 (Fed. Cir. 2009) (“There is a material legal distinction between a ‘false’ representation and a ‘fraudulent’ one,” the former being an insufficient basis for alleging fraud.) (Opp. to Mot. p. 2.) Given the heightened pleading standards of Federal Rule of Civil Procedure 9, it was prudent for Google to wait until it had verified statements, not merely assumptions, that the mark had not been used on specific goods and services before it claimed fraud, as well as sufficient basis from which to aver Registrant’s intent to defraud. After all, Registrant itself claimed that “up until recently, VIA neither believed nor had any knowledge” that certain statements in the Subject Registrations were false. (Mot. to Amend, p. 4.) If Registrant claims it was unaware of errors in the Subject Registrations until recently, it cannot claim that Google should have been aware of Registrant’s fraud when it filed its Petition to Cancel. Accordingly, Registrant cannot plausibly assert that it would be prejudiced if Google’s Motion for Leave to Amend is granted.

B. Google’s Fraud Claim Is Sufficiently Pled and Not Futile.

“Fraud in procuring a trademark registration or renewal occurs when an applicant knowingly makes false, material representations of fact in connection with his application.” *In re Bose Corp.*, 580 F.3d 1240, 1243 (Fed. Cir. 2009) (quoting *Torres v. Cantine Torresella S.r.L.*, 808 F.2d 46, 48 (Fed. Cir. 1986)). Under Fed. R. Civ. P. 9(b) and 37 C.F.R. § 2.116(a), a party must plead the elements of fraud with particularity. “Additionally, under USPTO Rule 11.18, the factual basis for a pleading requires either that the pleader know of facts that support the pleading or that evidence showing the factual basis is ‘likely’ to be obtained after a reasonable opportunity for discovery or investigation.” *Asian & Western Classics B.V. v. Selkow*, 92 USPQ2d 1478, 1479 (TTAB 2009).

In addition, “intent, as a condition of mind of a person, may be averred generally.” *Willis v. Can't Stop Prods.*, 2011 TTAB LEXIS 296, *5 (TTAB Sept. 22, 2011) [non-precedential]; *Daimler Chrysler Corp. v. American Motors Corp.*, 94 USPQ2d 1086, 1089 (TTAB 2010) (finding allegations of material misrepresentations knowingly made to procure a registration constitute sufficient allegation of intent element for pleading fraud). “[B]ecause direct evidence of deceptive intent is rarely available, such intent can be inferred from indirect and circumstantial evidence.” *In re Bose Corp.*, at 1244 (quoting *Star Scientific, Inc. v. R.J. Reynolds Tobacco Co.*, 537 F.3d 1357, 1366 (Fed. Cir. 2008)); see *Kaiser Found. Health Plan, Inc. v. Abbott Labs., Inc.*, 552 F.3d 1033, 1050 (9th Cir. 2009) (“It would be naive to expect that someone who had sought to deceive the PTO would state in a deposition that this had been his intent.”)

Google alleges its fraud claim with sufficient particularity in its Amended Petition for Cancellation. The Amended Petition is replete with allegations of material misrepresentations, Registrant’s knowledge of those misrepresentations, and Registrant’s intent to deceive – all of which are pled with specificity and supported by factual assertions that Google uncovered during discovery. (Mot. for Leave, Ex. A ¶¶ 25-39.) Given the particularity of its allegations, Google has

sufficiently pled a cognizable claim that Registrant fraudulently procured and maintained the Subject Registrations.¹

C. Judicial Economy Is Served By Allowing Google to Amend its Petition for Cancellation.

“If the underlying facts or circumstances relied upon by a plaintiff may be a proper subject of relief, he ought to be afforded an opportunity to test his claims on the merits.” *Foman*, 371 U.S. at 182; *see also Commodore Elec. Ltd. v. CBM Kabushiki Kaisha*, 26 USPQ2d 1503, 1505 (TTAB 1993); TBMP § 507.02. Denying a petitioner the ability to amend its pleading to add a potentially legitimate claim “would essentially emphasize form over substance” and would not serve “the Board’s interest in judicial economy and in adjudicating cases on the merits.” *Omega S.A.*, Decision on Mot. for Leave, *4 (TTAB September 4, 2012) [non-precedential]; *see, e.g., Hurley International L.L.C.*, 82 USPQ2d at 1341 (fraud claim allowed); *Cool-Ray, Inc. v. Eye Care, Inc.*, 183 USPQ 618, 621 (TTAB 1974); *American Optical Corp. v. American Olean Tile Co.*, 168 USPQ 471 (TTAB 1971).

The Board should afford Google the opportunity to challenge the Subject Registrations on all known grounds at one time. If the Board denies the Motion, Google will likely need to bring another action seeking to cancel the Subject Registrations on the ground of fraud at a later date. The Board thus may be required to consider two cancellation proceedings between the same parties affecting the same registrations. Denying the Motion would therefore run counter to the interests of judicial economy as it would result in the expenditure of unnecessary resources by both the parties and the Board.

¹ Tellingly, almost all of the cases cited by Registrant in its Opposition discuss the sufficiency of a fraud claim after it was considered on its merits; not whether the claim was sufficiently pled. As such, those cases are not relevant to a determination of whether Google should be allowed to amend its Petition for Cancellation.

III. CONCLUSION

For the foregoing reasons, Google respectfully requests that the Board enter an order (1) granting Google leave to amend its cancellation petition to add allegation of fraud as set forth in its Amended Petition to Cancel, and (2) resetting deadlines after the disposition of this motion to allow for at least 60 days to conduct additional discovery. Google notes that it filed and served a motion to compel on May 28, 2015; accordingly, pursuant to 37 CFR § 2.120(e)(2), this proceeding is currently suspended until disposition of the motion. To the extent that Google's Motion for Leave to Amend its Petition to Cancel is still pending when the Board decides Google's Motion to Compel, Google respectfully requests that the Board keep the proceeding suspended until it decides the present Motion.

Respectfully submitted,

Date: June 1, 2015

/Brendan J. Hughes/

Janet L. Cullum

Brendan J. Hughes

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Rebecca Givner-Forbes

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Counsel for Petitioner Google Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **REPLY IN SUPPORT OF MOTION FOR LEAVE TO AMEND PETITION FOR CANCELLATION**, along with a true and correct copy of the supporting declaration of Morgan A. Champion filed concurrently herewith, has been served on Registrant VIA Technologies, Inc. by mailing said copy on the date set forth below, via U.S. Mail, postage prepaid to Registrant's address of record

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Date: June 1, 2015

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117282624

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Google Inc.,)	Cancellation No.: 92056816
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Petitioner,)	Registration No.: 3,360,331
)	Mark: CHROME
v.)	Issued: December 25, 2007
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VIA Technologies, Inc.,)	Registration No.: 3,951,287
)	Mark: CHROME
Registrant.)	Issued: April 26, 2011
)	

**DECLARATION OF MORGAN A. CHAMPION IN SUPPORT OF
GOOGLE'S REPLY IN SUPPORT OF MOTION FOR LEAVE TO AMEND PETITION
FOR CANCELLATION**

I, Morgan A. Champion, hereby declare as follows.

1. I am an associate at the law firm Cooley LLP and represent Petitioner Google Inc. ("Google") in this cancellation action against Registrant VIA Technologies, Inc. ("Registrant"). I make this statement based on my personal knowledge of the facts set forth herein, my review of client files maintained by Cooley LLP for Google, and my conversations with my colleagues regarding this proceeding. I submit this declaration in support of Google's Reply in Support of Motion for Leave to Amend Petition for Cancellation.
2. Attached hereto as Exhibit A is a true and correct copy of Registrant's amended Initial Disclosures served June 17, 2014.
3. Virtually all of the extension requests that the parties have requested in this proceeding were caused by Registrant's discovery failures.

Date: June 1, 2015

/Morgan A. Champion/

Morgan A. Champion

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117378516 v1

Exhibit A

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Google, Inc., Petitioner, v. VIA Technologies, Inc., Registrant.	Cancellation No.: 92056816 Registration No.: 3,360,331 Mark: CHROME Issued: December 25, 2007 Registration No.: 3,951,287 Mark: CHROME Issued: April 26, 2011
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REGISTRANT VIA TECHNOLOGIES, INC.'S AMENDED INITIAL DISCLOSURES

Pursuant to Rules 26(a)(1)(A) and 26(e) of the Federal Rules of Civil Procedure, Registrant VIA Technologies, Inc. ("VIA") hereby provides the following amended initial disclosures. These amended initial disclosures are based on VIA's reasonable inquiries to date, and VIA reserves the right to further amend, supplement, or otherwise modify these disclosures. VIA's amended initial disclosures represent a good faith effort to identify information and documents it may use to support claims and defenses.

By making these amended initial disclosures, VIA does not represent that it is identifying every document, tangible thing or witness possibly relevant to this proceeding. VIA's amended initial disclosures are made without in any way waiving: (1) the right to object to the use of any of the disclosed information, for any purpose, in whole or in part, in any subsequent proceeding in this action or any other action; and (2) the right to object on any and all grounds, at any time, to any discovery request or proceeding involving or relating to the subject matter of these disclosures.

Fed. R. Civ. Proc. 26(a)(1)(A)(i) Witnesses:

The name and, if known, the address and telephone number of each individual likely to have discoverable information—along with the subjects of that information—that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment.

Pursuant to Federal Rule of Civil Procedure 26(a)(1)(A)(i), VIA identifies the following individuals. VIA expressly reserves the right to identify and/or call as witnesses additional and/or different individuals if, during the course of discovery and investigation relating to this case, VIA learns that such additional and/or different individuals have relevant knowledge.

1. Dr. Ken Weng

Dr. Weng can be contacted through VIA's counsel:

Russ, August & Kabat
12424 Wilshire Boulevard, 12th Floor
Los Angeles, California 90025
Tel.: 310-826-7474

Subjects: VIA's adoption, ownership, application for service mark registrations, actual use, and planned use of its CHROME trademarks; VIA's advertising, promotional, and marketing activities and publications featuring its CHROME trademarks and CHROME branded products and services.

2. Amy Wu

Ms. Wu can be contacted through VIA's counsel:

Russ, August & Kabat
12424 Wilshire Boulevard, 12th Floor
Los Angeles, California 90025
Tel.: 310-826-7474

Subjects: VIA's actual use and planned use of its CHROME trademarks; VIA's advertising, promotional, and marketing activities and publications featuring its CHROME trademarks and CHROME branded products and services.

3. Young Kwon

Mr. Kwon's last known contact information is:
ykwonusa@yahoo.com.

Subjects: VIA's selection, adoption, and development of its CHROME trademarks.

4. Richard Brown

Mr. Brown can be contacted through VIA's counsel:
Russ, August & Kabat
12424 Wilshire Boulevard, 12th Floor
Los Angeles, California 90025
Tel.: 310-826-7474

Subjects: VIA's actual use of its CHROME trademarks; VIA's advertising, promotional, and marketing activities and publications featuring its CHROME trademarks and CHROME branded products and services.

5. Pat Meier

Ms. Meier's contact information is:
Pat Meier Associates Public Relations
Tel.: 415-389-1700

Subjects: VIA's advertising, promotional, and marketing activities and publications featuring its CHROME trademarks and CHROME branded products and services.

Fed. R. Civ. Proc. 26(a)(1)(A)(ii) Documents:

A copy — or a description by category and location — of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment.

Pursuant to Federal Rule of Civil Procedure 26(a)(1)(A)(ii), and based upon presently available information, VIA may use relevant documents from the following categories to support its claims. VIA expressly reserves the right to identify and use documents from additional categories if, during the course of discovery and investigation relating to this case, VIA learns that such additional categories contain relevant documents. VIA also reserves the right to respond to and/or rebut the contentions and allegations Petitioner may make.


1. Copies of VIA's United States trademark filing and submissions to the United States Patent and Trademark Office;

2. Documents showing VIA Technologies' valid, enforceable rights in the CHROME marks;
3. Documents showing VIA's use and intended use of the CHROME marks in the United States, including but not limited to VIA's sales and/or marketing and/or advertising activities in connection with the CHROME marks; and
4. Documents showing VIA's intended expansion of its use of the CHROME marks.

Further discovery and investigation may reveal additional tangible items or documents, which may be relevant and discoverable. VIA may produce other relevant and non-privileged documents in its own possession, custody or control, to the extent reasonably available, in response to the appropriate document requests, subject to its objections.

Dated: June 17, 2014

Respectfully submitted,



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*Attorneys for Registrant
VIA Technologies Industries, Inc.*